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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,630	11/12/2003	Qiang Wu	010116C1	2190
23596 7590 07/29/2008 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121				
EXAMINER				
WONG, BLANCHE				
ART UNIT		PAPER NUMBER		
2619				
NOTIFICATION DATE		DELIVERY MODE		
07/29/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

us-docketing@qualcomm.com  
kascanla@qualcomm.com  
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### Office Action Summary

**Application No.**

10/712,630

**Applicant(s)**

WU ET AL.

**Examiner**

Blanche Wong

**Art Unit**

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 April 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-11 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 24 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see Response to Office Action, filed April 18, 2008, with respect to claims 1-3 and 5-8 have been fully considered and are persuasive. The 102(e) rejection of claims 1-3 and 5-8 has been withdrawn.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the comparator to determine and the comparator for receiving (both in claim 1), delta generator and a best sector identifier (claim 5) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "874" has been used to designate both best sector identifier (Specification, para. [0068]) and new sector identification module (Fig. 8b). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claims 1-4** are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a signal level estimator and a new sector identification module in para. [067], does not reasonably provide enablement for "a signal level estimator ... a comparator to determine ...; a comparator for receiving ...; an accumulator ...; and a new sector identification module ..." as recited in claim 1. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

Clearly, para. [067], and Fig. 8A, discloses the comparator to determine and the comparator for receiving is one of the same comparator 810. Additionally, the comparator does not determine the differences between a plurality of signal levels received from a plurality of active sectors and a signal level of a current serving sectors. As a matter of fact, the comparator determines the differences between a variable rate signal level of the current serving sector and a variable rate signal level of each of the plurality of active sectors, between the adjusted fixed rate signal level of the current

serving sector and the variable rate signal level of each of the plurality of active sectors, between the variable rate signal level of the current serving sector and the adjusted fixed rate signal level of each of the plurality of active sectors, and between the adjusted fixed rate signal of the current serving sector and the adjusted fixed rate signal of each of the plurality of active sectors (DiffVV,DiffFV,DiffVF,DiffFF respectively), para. [0034]-0038].

Claims 2-4 are depending from rejected claim 1.

6. **Claims 5-11** are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a comparator, an accumulator, and a best sector identifier in para. [068], does not reasonably provide enablement for " a comparator ... delta generator ... an accumulator, ... and a best sector identifier ..." as recited in claim 5. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

Para. [0068] discloses the comparator 866 determines differences 868, DiffVV,DiffFV,DiffVF,DiffFF as per procedure 300. Procedure 300 includes calculation of DeltaCreditVV, DeltaCreditVF, DeltaCreditFV, and DeltaCreditVW, para. [0034]-0038]. Subsequently, accumulator 870 provides accumulated total credits 872 to new sector identification module 874.

Claims 6-11 are depending from rejected claim 5.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. **Claims 1-4** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 1, it is unclear whether "a current serving sector" in line 6 is the same as "the current serving sector" in line 4.

With regard to claim 1, it is unclear what the comparator for receiving adjusted signal levels determines the differences of, or whether it is determining the differences among the received adjusted signal levels.

With regard to claim 1, it is unclear what is "credits" in line 8.

#### ***Allowable Subject Matter***

9. The following is a statement of reasons for the indication of allowable subject matter:

With regard to claim 1, the prior art of record fails to anticipate or make obvious an access terminal comprising: "a signal level estimator to deduct an offset value from a fixed rate signal level of the current serving sector *and a plurality of active sectors* to generate an adjusted fixed rate signal level for all sectors; a comparator, *coupled to the signal level estimator, to receive the adjusted fixed rate signal levels for all sectors and to determine differences between a variable rate signal level of the current serving sector and a variable rate signal level of each of the plurality of active sectors, between*

*the adjusted fixed rate signal level of the current serving sector and the variable rate signal level of each of the plurality of active sectors, between the variable rate signal level of the current serving sector and the adjusted fixed rate signal level of each of the plurality of active sectors, and between the adjusted fixed rate signal of the current serving sector and the adjusted fixed rate signal of each of the plurality of active sectors, wherein each of the differences has a respective credit counter and wherein the comparator increments the respective one of the credit counters if the difference is less than -3db; an accumulator, coupled to the comparator, to accumulate all the credit counters and output a total credit; and a new sector identification module to receive the total credit and to select the best serving sector among the plurality of active sectors based on the total credits" (with emphasis).*

With regard to claim 5, the prior art of record fails to anticipate or make obvious an apparatus comprising: "a comparator to determine differences between a variable rate signal level of the current serving sector and a variable rate signal level of each of the plurality of active sectors, between an adjusted fixed rate signal level of the current serving sector and the variable rate signal level of each of the plurality of active sectors, between the variable rate signal level of the current serving sector and an adjusted fixed rate signal level of each of the plurality of active sectors, and between the adjusted fixed rate signal of the current serving sector and the adjusted fixed rate signal of each of the plurality of active sectors, wherein each of the differences has a respective credit counter; a delta generator, coupled to the comparator, to increment the respective delta credit counters; an accumulator, coupled to the delta generator, to accumulate the

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*respective delta credit counters and to produce a total credit; and a best sector identifier, coupled to the accumulator, to identify a best serving sector from the total credit"* (with emphasis).

### **Conclusion**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blanche Wong whose telephone number is 571-272-3177. The examiner can normally be reached on Monday through Friday, 830am to 530pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on 571-272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Blanche Wong/  
Examiner, Art Unit 2619  
July 18, 2008

/Hassan Kizou/  
Supervisory Patent Examiner, Art Unit 2619